SINGAPORE REPORTS.

DEPUTY PUBLIC PROSECUTOR v. SALAMAT Bin MANGON.

[App. Crim. Juris. (Murray-Aynsley, C.J.) Oct. 17, 1946]

Minor Offences Ordinance (Cap. 24) Section 26 (1) — Offensive weapon — Vegetable knife — Circumstances of the case to be taken into consideration in determining whether a weapon is offensive or not.

The respondent was charged with carrying an offensive weapon, namely a knife. He pleaded guilty and was fined $30/- or 1 month's rigorous imprisonment in default. The learned District Judge in his grounds of judgment said "He was carrying an ordinary vegetable knife which was a tool of his trade". It appeared that the respondent was found with the knife concealed on his person at 12.10 a.m. in Geylang Serai, where there had recently been an affray between Malays and Dutch soldiers and civilians. The Public Prosecutor appealed on the ground that the sentence was inadequate.

Held, (1) that whether a weapon is offensive or not is a question of fact depending on the circumstances of each particular case and that there was evidence in this case that the respondent was carrying an offensive weapon;

(2) that in the circumstances of the case, the penalty imposed was inadequate.

Cases referred to :—

(1) *In the case of George Cosans* (1785) 1 Leach 342 (footnote); 168 E.R. 274.

(2) *Sarban Singh v. P. P.* (1941) 10 M.L.J. 210.

(3) *Rex v. James Johnson* (1822) Russ. & Ry. 493, 168 E.R. 914.

A. W. Bellamy for the Appellant.

Respondent in person.

Murray-Aynsley, C.J.:—In this case the respondent was charged with carrying an offensive weapon, namely, a knife. He pleaded guilty and was fined $30 or 1 month r.i. in default.

The Public Prosecutor appealed on the ground that the sentence was inadequate. In his grounds of judgment the learned District Judge said "He was carrying an ordinary vegetable knife which was a tool of his trade". This gave rise to the question as to whether an offence had been committed. The meaning of the words "offensive weapon" occurs in several Acts of Parliament as well as in local legislation and they give rise to difficulties in interpretation. There may be said to be two schools of thought. One school regards merely the primary purpose of the weapon used and, if that is not offensive, holds that it is not within the section. In this sense are the case of *George Cosans*[1] and the recent F.M.S. case of *Sarban Singh*[2]. On the other hand in the case of *James Johnson*[3], where the accused had used what appeared to be a common walking stick, the Judge directed the jury that if the accused had used his stick by way of attack for the purpose of effecting a robbery it might be considered as an offensive weapon. In my opinion this is the correct view. Whether a weapon is offensive or not is a question of fact depending on the circumstances of each particular case. Many things such as razors, parangs and pick handles have their legitimate and pacific uses but circumstances may show that that was not the use which the accused had in mind at the material time. For instance, where a man is found prowling round at night with a razor concealed in his sock or a parang about his person.

In this case the respondent was found with a knife at 12.10 a.m. in the neighbourhood of an affray. In the circumstances I consider that there was evidence that the respondent was carrying an offensive weapon and I consider further that the penalty imposed was inadequate, and I therefore passed the increased sentence of fine of $150 or 6 months r.i.

Sentence Increased.

REX v. YEO KIM WATT AND ANOTHER.

[Reference to Court of Criminal Appeal (Willan, C.J., Malayan Union, Laville and Pretheroe, JJ.) Oct. 28, 1946]

Penal Code, Section 34 — Common Intention — Robbery when armed with deadly weapon — One member of a gang found guilty of committing robbery while armed with deadly weapon and so liable to conviction under Section 397 of the Penal Code — Whether Section 34 of the Penal Code can be invoked to support charge against every member of the gang, whether armed or not, under Section 397 of the Penal Code.

In this case the two accused were charged jointly under Sections 392 and 397 of the Penal Code. The evidence showed that in the commission of the robbery, the first accused was not armed, but that the second accused was armed. At the conclusion of the case for the prosecution the trial judge amended the charge and directed that both accused be charged under Section 392 of the Penal Code and the second accused only be charged under Section 397 of the Penal Code. He held that Section 34 of the Penal Code had no application to